



## *Map Act Litigation Update*

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# *Transportation Corridor Official Map Act*

- 1987 law to protect transportation corridors
- Maps filed with the register of deeds
  - 26 Maps in 20 counties statewide
  - DOT BOT, Local Gov., Regional Public Transportation Authorities, NCTPA, WMPO may file maps
- Building permits or subdivision approvals subject to a 3 year waiting period and variance requirements.



## *Kirby v. NCDOT*

- 9 Inverse Condemnation actions against DOT
  - Alleged taking without just compensation
- NC Supreme Court held
  - Map Act restricted fundamental rights to “improve, develop, and subdivide their property”
  - These restraints constitute a taking
  - Just compensation must be determined on a property-by property basis



## *HB 959*

- Allows payment of litigation costs from STI
- One year moratorium on new maps
- Rescinded all corridor maps
- Modified interest rate to prime rate
- Directed study of future protection of corridors



## *Active Litigation*

- 391 cases as of 9/26/16
- 9 Counties with active litigation
  - Cleveland, Cumberland, Forsyth, Guilford New Hanover, Pender, Pitt, Robeson and Wake
  - Cases consolidated as 2.1 cases in each county
- DOT represented by outside counsel and AG
- Competing Rulings in Cleveland and Forsyth



## *Interest Taken: Fee vs Easement*

- Plaintiffs contend the interest taken was in fee simple
  - Full value of the property
- DOT contends the interest taken is a negative easement
  - Akin to a restrictive covenant
- Cleveland County Judge held interest to be a restrictive covenant



# *Looking Ahead*

- Approximately 4400 parcels may have claims
- Many of these parcels will be needed and acquired for normal right-of-way operations
  - DOT analyzing what parcels fall within known ROW for funded projects
- Dedicated senior appraiser to oversee corridor appraisals



# *Questions?*

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